

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARK MCDONALD,

11 Plaintiff,

v.

12 MOLINA HEALTHCARE, INC., a foreign
13 profit corporation; and MOLINA
14 HEALTHCARE OF WASHINGTON, INC., a
domestic profit corporation,

15 Defendants.

CASE NO. C20-1189-JCC

MINUTE ORDER

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17 The following Minute Order is made by direction of the Court, the Honorable John C.
18 Coughenour, United States District Judge:

19 This matter comes before the Court on the corrected stipulation of dismissal filed by
20 Plaintiff Mark McDonald and Defendants Molina Healthcare, Inc. and Molina Healthcare of
21 Washington, Inc. (Dkt. No. 24). On March 15, 2021, the parties notified the Court by telephone
22 that their prior stipulation of dismissal (Dkt. No. 22) was entered in error. The parties intended
23 only to stipulate to dismissal of Plaintiff's claims against Defendant Molina Healthcare, Inc., but
24 the stipulation incorrectly indicated that Plaintiff's claims against both defendants were
25 dismissed. Accordingly, the Court VACATES its prior order dismissing all claims in this action
26 and directing the Clerk to close the case pursuant to the erroneous stipulation (Dkt. No. 23). The

Court also REINSTATES the previous case management deadlines (Dkt. No. 19).

The parties have now submitted a corrected stipulation of dismissal (Dkt. No. 24). Under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), a plaintiff may dismiss claims against some or all defendants by filing “a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii) (emphasis added); *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). In the corrected stipulation, all parties that have appeared stipulate to the dismissal of Plaintiff’s claims against Defendant Molina Healthcare, Inc. without prejudice and without an award of attorneys’ fees or costs to any party. (Dkt No. 24.) Thus, under Federal Rule of Civil Procedure 41(a)(1)(A), this stipulation is self-executing. Plaintiff’s claims against Defendant Molina Healthcare, Inc. are dismissed without prejudice and without an award of fees or costs to any party.

The Court previously deferred addressing Plaintiff and Defendant Molina Healthcare of Washington, Inc.’s stipulation (Dkt. No. 17) for an order granting Plaintiff leave to file an amended complaint. (Dkt. No. 18 at 2.) The stipulation is proper under Rule 15. *See Fed. R. Civ. P.* 15(a)(2) (“a party may amend its pleading . . . with the opposing party’s consent”). “Once the adverse party has consented to the amendment of a pleading, the court has no control over the matter under Rule 15(a).” *Fern v. United States*, 213 F.2d 674, 677 (9th Cir. 1954).

Accordingly, the Court GRANTS the parties’ stipulated motion and grants Plaintiff leave to file an amended complaint. Plaintiff must file the amended complaint within 14 days of the date of this order. The amended complaint may not differ from the complaint attached to the parties’ stipulation at Docket Number 17.

DATED this 24th day of March 2021.

William M. McCool
Clerk of Court

s/Paula McNabb
Deputy Clerk